



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,614	07/28/2003	Roger Y. B. Young	03-0460	4439
47384	7590	03/09/2009	EXAMINER	
RYAN, MASON & LEWIS, LLP 90 FOREST AVENUE LOCUST VALLEY, NY 11560			ART UNIT	PAPER NUMBER

DATE MAILED: 03/09/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

This is in response to Appellants' amended appeal brief filed August 6, 2008.

Appellants' Appeal Brief filed April 11, 2006, Amended Appeal Brief filed September 10, 2007 and Amended Appeal Brief filed August 6, 2008 are defective for following reasons.

The brief does not contain arguments of the appellant with respect to each ground of rejection presented for review, and the basis therefor, with citations of the statutes, regulations, authorities, and parts of the record relied on as required by 37 CFR 41.37(c)(1)(vii).

Each ground of rejection must be treated under a separate heading. For each ground of rejection applying to two or more claims, the claims may be argued separately or as a group. Any claim argued separately should be placed under a subheading identifying the claim by number. A statement which merely points out what a claim recites will not be considered an argument for separate patentability of the claim. See 37 CFR 41.37(c)(1)(vii).

Although independent claim 2 is expressly appealed and is reproduced in the Claim Appendix, the pending § 103 rejection of claim 2 has not been argued or even acknowledged. It appears that the failure of arguing appealed independent claim 2 is an unintentional oversight. Appellants must either to argue the rejection of independent claim 2 or withdraw the appeal of this claim.

The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters; and/or does not identify the structure, material, or acts described in the specification as corresponding to each claimed function for every means plus function and step plus function for each independent claim involved in the appeal and for each dependent claim argued separately by reference to the specification by page and line number, and to the drawing, if any, by reference characters, as required by 37 CFR 41.37(c)(1)(v).

The above mentioned Appeal Brief(s) fail to comply with 37 C.F.R. § 41.37(c)(1)(v) Summary of claimed subject matter for the reasons of: Although many of the independent and dependent method claims on appeal have been separately argued, the Amended Summary does not identify every step plus function in these claims and correspondingly does not identify “the structure, material, or acts described in the specification as corresponding to each claimed function”.

Appellants must file a new Amended Appeal Brief in order to cure the above mentioned defects. (See the Manual of Patent Examining Procedure (MPEP) § 1205.03(Rev. 3, Aug. 2005)). If the new Amended Appeal Brief includes argument directed to the pending § 103 rejection of independent claim 2, the new Brief must completely replace the previously filed Brief.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Que T. Le whose telephone number is (571) 272-2438.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Epps Georgia, can be reached at (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Que T. Le/  
Primary Examiner, Art Unit 2878